

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DEVIDAS JAISWAL,)	
)	
Plaintiff,)	8:06cv720
)	
vs.)	ORDER on INITIAL REVIEW
)	
DIRECTOR FBI,)	
)	
Defendant.)	

This matter is before the court for initial review of the complaint filed by the plaintiff, Devdas Jaiswal. The plaintiff has sued the Director of the Federal Bureau of Investigation ("FBI") because for an excessive period, the plaintiff has been waiting for a background check of his name to be completed by the FBI. Thus far, the delay has exceeded one and one-half years. The plaintiff has passed his examination for citizenship, but the "clearance" of his name remains the only obstacle to his becoming a U.S. citizen. According to the plaintiff, the FBI has refused to answer the plaintiff's inquiries or otherwise account for the delay. The plaintiff seeks only injunctive relief.

Also before the court is filing no. 2, the plaintiff's Motion to Proceed In Forma Pauperis ("IFP"). Because the plaintiff qualifies financially and the complaint is not frivolous, filing no. 2 is granted. As the plaintiff is proceeding IFP, he is entitled to service of process by the U.S. Marshal, without cost, after completing the appropriate forms.

THEREFORE, IT IS ORDERED:

1. Filing no. 2, the plaintiff's Motion to Proceed in Forma Pauperis, is granted.
2. The Clerk of Court shall send a copy of this order together with three summons forms and three USM-285 forms to the plaintiff, to be completed in accordance with Fed. R. Civ. P. 4(i) regarding "[s]erving the United States, Its Agencies, Corporations, Officers, or Employees," for service of process on the United States," a copy of which is attached to this Order.
3. The plaintiff shall, as soon as possible, fill in the forms and return the completed forms to the Clerk of Court, as, in the absence of the completed forms, service of process by the U.S. Marshal cannot occur. The Clerk of Court shall bring this case to the attention of the court if the plaintiff has not returned the forms for service of process by 60 days from the date of this Order.

4. Upon receipt of the completed summons and USM-285 forms, the Clerk shall sign the summons forms and forward them, together with copies of the complaint, to the U.S. Marshal for service on the United States. The court will copy the complaint.

5. The Marshal shall serve the United States, without payment of costs or fees; service may be by certified mail in the discretion of the Marshal

6. In addition, the United States Attorney for the District of Nebraska shall forward copies of this Order and copies of the plaintiff's complaint to the Attorney General of the United States, the Director of the Federal Bureau of Investigation, and, if appropriate, the Secretary of the United States Department of Homeland Security.

7. The defendant shall answer or otherwise respond to the complaint within the 60-day period prescribed by Fed. R. Civ. P. 12(a)(3).

8. The plaintiff shall keep the court informed of his current address at all times while this case is pending. All pleadings and communications filed with the court must bear the plaintiff's signature.

9. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court. The federal rules are available at any law library, and the local rules are available from the Clerk of Court, and also on the court's web site at www.ned.uscourts.gov.

10. After an appearance has been entered by a defendant, the plaintiff shall serve on the defendant or, if an appearance has been entered by counsel, upon such counsel, a copy of every future pleading or other communication to the court. Parties usually serve copies of documents on other parties by first class mail. The plaintiff shall include with each document submitted to the court a "**Certificate of Service**" stating the date a true and correct copy of such document was mailed to the defendant or to the attorney of any represented defendant. **If the plaintiff does not include a Certificate of Service indicating that a copy of a communication to the court has been sent to the other part(ies) to a case, the court will issue a Notice of Deficiency and may strike the plaintiff's communication from the record.**

DATED this 5th day of February, 2007.

BY THE COURT:

s/ F. A. GOSSETT
United States Magistrate Judge

Notice regarding Federal Rule of Civil Procedure 4(i)

Federal Rule of Civil Procedure 4(i) regarding “[s]erving the United States, Its Agencies, Corporations, Officers, or Employees,” states:

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the **United States attorney for the district in which the action is brought** or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney

U.S. Attorney for the District of Nebraska

1620 Dodge Street, Suite 1400
Omaha, NE 68103

and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the **Attorney General of the United States** at Washington, District of Columbia,

U.S. Attorney General

Main Justice Building
10th & Constitution Ave., N.W.
Washington, D.C. 20530

and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to **the officer or agency**.

Director of the Federal Bureau of Investigation

935 Pennsylvania Ave, NW
Washington, DC 20535 .